



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 9, 2008

TO: Mayor and Councilmembers

FROM: Administration Division, Parks and Recreation Department
Planning Division, Community Development Department

SUBJECT: Tree Preservation And Landscape Plan Maintenance Policies And Enforcement Procedures Recommendations

RECOMMENDATION: That Council:

- A. Receive a presentation on the Tree Preservation and Landscape Plan Maintenance Policies and Enforcement Procedures Review; and
- B. Refer the proposed revisions to the City's Municipal Code and enforcement procedures related to the protection of trees and the maintenance of landscape plans to the Ordinance Committee for further consideration.

EXECUTIVE SUMMARY:

In late January 2008, as a result of several high profile violations, the City Council directed staff to conduct an in-depth review of City policies and enforcement procedures related to tree removals, excessive pruning of trees, and failures to maintain approved landscape plans. Since then, an inter-departmental team of staff from the City Administrator's office, City Attorney's office, and the Community Development, Fire, and Parks and Recreation Departments, evaluated the City's current policies and enforcement procedures. Staff developed preliminary recommendations that were presented and discussed at two public workshops and meetings of the Street Tree Advisory Committee, Park and Recreation Commission, Single Family Design Board, Architectural Board of Review, and Historic Landmarks Commission. Following these discussions, staff reviewed the proposed recommendations, made some revisions, and is now presenting recommendations to the City Council. Staff recommends revisions to the Municipal Code to clarify tree protection standards and the maintenance standards for approved landscape plans, the adoption of significant penalties for tree removal and excessive pruning violations, improvements to public outreach regarding City regulations and requirements, and the implementation of a voluntary education program for tree and landscape contractors.

DISCUSSION:

Introduction

The inter-departmental team reviewed the City's current policies and procedures related to tree preservation and landscape plan maintenance. During the course of this review, staff identified some ways to immediately improve enforcement and has already implemented these changes. In addition, staff developed a set of recommended revisions to the Municipal Code and City policies and enforcement procedures relating to tree preservation and landscape plan maintenance. These recommendations were presented at multiple public meetings. A list of the public meetings and their minutes are attached to this report. Based on the discussions held in the public meetings, staff revised the recommendations and is presenting them to the City Council for consideration and referral to the Ordinance Committee.

Administrative Improvements to Enforcement Procedures

Staff has implemented the following improvements to existing enforcement procedures:

- Increased inter-departmental communication and coordination of tree preservation and landscape plan maintenance enforcement cases,
- Clarified staff's understanding of available enforcement tools resulting in more timely actions, and
- Initiated enforcement on persons or companies that are responsible for tree preservation violations in addition to the property owners who authorize the work.

Policy and Procedure Recommendations

Staff recommends amendments to the Municipal Code and revisions to City policies and enforcement procedures related to tree preservation and landscape plan maintenance. The purpose of these recommendations is to clarify City standards, establish appropriate deterrents to violations, and simplify comprehensive enforcement of tree violations and the maintenance of approved landscape plans. In the course of its review and the public discussions, staff determined that tree violations (removals and excessive pruning) required greater penalties and more aggressive enforcement procedures in order to achieve an appropriate deterrent effect. Some members of City boards and commissions, as well as the general public, called for increased penalties based on the size or prominence of the tree involved in the violation. For these reasons, staff believes it is appropriate to consider different policies and different enforcement procedures for tree preservation violations than landscape plan maintenance violations. Therefore, the recommended revisions are separated into three groups: recommendations relating to tree preservation, recommendations relating to landscape plan maintenance, and recommendations of general application.

Tree Preservation Recommendations

Staff recommends revisions to the Municipal Code to clarify existing standards and to expand the protection of trees shown on approved landscape plans for multi-family residential and commercial developments. Staff also recommends a significant increase in the fines for excessive pruning or tree removal violations.

Recommendation 1: Municipal Code Revisions

- Revise Municipal Code Chapter 15.24, Preservation of Trees, to clarify the enforcement standards:
 - Define the treatment of trees that straddle the setback (If 50% or more of the trunk is within the front setback, the tree is regulated.)
 - Add an exemption for tree removals or trimming when required by the Fire Department in order to maintain defensible space or to comply with the City's Wildland Fire Plan.
- Extend the current protection afforded to front setback and parking lot trees to trees shown on approved landscape plans for multi-family residential and commercial development.
- Establish a consistent trunk measurement height of 4½ feet above grade throughout the Municipal Code.
- Cross-reference all Municipal Code sections related to tree preservation and landscape plan maintenance.

Recommendation 2: Establish Significant Penalties for Tree Violations

Over the course of the staff review and the public discussion, it became clear that the current administrative fine of \$100 per tree violation is not an adequate deterrent. It is anticipated that higher fines, in addition to requiring corrective action (rehabilitation or replacement of trees that are affected), will achieve greater compliance.

The initial fine schedule presented at the public meetings made distinctions based on the identity of the person who committed the violation and the number of violations that had been committed as follows:

Initial Fine Schedule

Action without or in violation of a permit	Single Family Owner	Multi-family Owner	Tree company/ Contractor
1st pruning offence	\$250	\$375	\$500
2nd pruning offence	\$500	\$750	\$1000
Removal	\$500	\$750	\$1000

Responding to calls from the public for consistent treatment of violators and for an escalating fine schedule based on the size or significance of the tree involved, staff now recommends the following schedule of administrative fines for violations involving excessive pruning or tree removals:

Revised Fine Schedule

Action without or in violation of a permit	Trunk diameter from 4" up to 12"	Trunk diameter over 12" and up to 24"	Trunk diameter over 24"
Pruning Offense	Up to \$500	Up to \$1,000	Up to \$1,000
Removal	Up to \$1,000	Up to \$3,000	Up to \$5,000

The proposed schedule details the maximum fines and allows flexibility to differentiate between minor violations and more significant or repeated violations.

Landscape Plan Maintenance Recommendations

Presently, the Municipal Code does not require the maintenance of an approved landscape plan. When a property owner fails to maintain his or her landscaping in accordance with an approved landscape plan, the case is processed as a violation of the project's conditions of approval. This enforcement procedure is not very flexible (in terms of scaling the response to the scope of the violation) and requires a substantial expenditure of staff resources in order to resolve each violation. In order to add flexibility to the City's enforcement response and to streamline City enforcement efforts, staff recommends the adoption of an ordinance requiring the maintenance of approved landscape plans. Because landscape plan maintenance violations are generally less significant than tree preservation violations, a different fine schedule is proposed for maintenance violations.

Recommendation 1: Municipal Code Revisions

- Adopt an ordinance that requires maintenance of approved landscape plans in accordance with a defined maintenance standard.

Recommendation 2: Landscape Plan Maintenance Violations (other than trees)

- Administrative fine of \$100 per violation, with an additional fine of \$100 per day if violation is not corrected by deadline.
- Administrative discretion to respond to minor changes to approved landscape plans.

General Recommendations

In addition to the recommendations specifically related to tree preservation and landscape plan maintenance, Staff recommends the following efforts to educate property owners and industry professionals on the City's rules and regulations regarding tree preservation and the maintenance of landscape plans:

Recommendation 1: Implement a Voluntary Education Program

Over the course of the review process and public discussions, staff concluded that local tree and landscape professionals are not completely familiar with City requirements and regulations regarding tree preservation or landscape plan maintenance. Therefore, staff recommends establishing a voluntary program to educate tree and landscape professionals on the City's requirements and regulations. This training would be available at least once per year.

Recommendation 2: Improve Methods to Disseminate Tree Preservation and Landscape Plan Maintenance Requirements

The City's website currently includes links to the Municipal Code and other information related to tree preservation and landscape plan maintenance policies. Staff recommends using a variety of methods to disseminate information to the public, including adding a specific page to the City's website for tree preservation and landscape plan maintenance information.

Other Proposals Considered, But Not Recommended

In addition to the proposals recommended in this report, the inter-departmental staff team evaluated other proposals regarding tree preservation policies and enforcement procedures. A couple of these proposals deserve mention. For the reasons explained below, staff does not recommend these proposals at this time.

Protection of Oaks and Sycamores Anywhere on a Lot

The City's current tree preservation regulations extend to trees within the front setback in most zones, and parking lot trees. In this report, staff recommends extending these protections to trees shown on approved landscape plans for multi-family residential and commercial development. In addition, staff evaluated a policy that would extend tree protections to oaks and sycamores anywhere on the lot.

While the public workshops and meetings with Boards and Commissions demonstrated a general support for protecting mature specimen trees and to some extent native trees (such as Oaks), there was some reluctance to extend new rules into private backyards and other areas not currently regulated. The Street Tree Advisory Committee did not support expanding the City's purview on private property beyond the current established setbacks. From an implementation standpoint, staff also had concerns that additional staff resources would be necessary to enforce the expanded scope of the regulations.

Based on the mixed support and the concerns expressed, staff does not recommend the extension of tree preservation regulations beyond trees located within the front setback or parking lots, or shown on approved landscape plans in multi-family and commercial developments. Additional review and consideration of extending preservation regulations could be undertaken during the upcoming development of the urban forest management plan.

Adoption of ANSI Standards for the City's Tree Preservation Ordinance

Currently, the Municipal Code prohibits cutting down or otherwise destroying a tree without a permit. The term "cutting down or otherwise destroying" is defined as cutting a tree down or pruning a tree in such a way that its natural character is significantly altered or its overall size is reduced by more than one-third. Some members of the public have requested that the City adopt the American National Standard Institute (ANSI) pruning standards and best management practices as the means of establishing tree violations under the Municipal Code.

Staff supports the use of the ANSI standards and best management practices as guidelines for tree pruning techniques and intends to include a link to this information on the proposed City webpage. However, staff does not recommend the use of the ANSI standards or best management practices as the means of establishing violations under the Municipal Code. First, the ANSI standards regarding tree pruning are generally written as guidelines, not strict prohibitions. Therefore, they do not provide strict rules of conduct that can be enforced with a penal ordinance. Second, the ANSI standards recommend that pruning reduce the foliage of a tree by no more than one-quarter within an annual growing season. Staff believes reductions of one-quarter would be more difficult to prove than reductions of more than one-third through an after-the-fact investigation of a tree pruning complaint. In addition, City maintenance practices

regularly require City staff to prune more than one-quarter of the foliage of a tree within an annual growing season. City staff is hesitant to recommend an enforcement standard for private property owners different than the City's current pruning practices.

BUDGET/FINANCIAL INFORMATION:

Staff anticipates an increase in the number of enforcement cases, particularly cases involving approved landscape plans, as our recommendations include codifying standards for landscape plan maintenance. These additional cases would be managed by existing Planning Division staff, and would be placed on a priority list with all other pending enforcement cases awaiting assignment. Parks & Recreation Department staff would continue to work with Planning Division staff in identifying and correcting violations involving excessive tree pruning and removal. This assistance would be provided by existing staff. Although the overall workload may increase, the Community Development and Parks & Recreation Departments do not anticipate a significant fiscal impact at this time.

SUSTAINABILITY IMPACT:

Tree preservation and landscape plan maintenance policies are essential tools for the maintenance of a healthy urban forest and provide community aesthetic benefits. Updated policies will provide long-term protection for the City's urban forest which provides community energy conservation, water quality, air quality, and wildlife habitat benefits.

ATTACHMENTS:

1. September 22, 2008 Public Workshop Handout
2. Summary of Comments from September 22, 2008 Public Workshop and November 13, 2008 Public Workshop
3. Meeting minutes from the Street Tree Advisory Committee, Park and Recreation Commission, Single Family Design Board, Historic Landmarks Commission and the Architectural board of Review

PREPARED BY: Jill E. Zachary, Assistant Parks and Recreation Director
Renee Brooke and Jaime Limon, Senior Planners

SUBMITTED BY: Nancy L. Rapp, Parks and Recreation Director
Paul Casey, Community Development Director

APPROVED BY: City Administrator's Office



City of Santa Barbara Tree and Landscaping Preservation and Enforcement Procedures - September 22, 2008

1. What trees and landscaping do the City of Santa Barbara currently regulate?

- **Street Trees** - trees within the public right of way
- **City Trees** - trees on City property (parks, public facilities, etc.)
- **Setback Trees** – trees (more than 4" in diameter) within the front setback of private property. Front setbacks vary in residential zones from 10' to 35', and are not required in manufacturing and most commercial zones.
- **Parking Lot Trees** - trees required by the Zoning Ordinance for commercial, industrial, and multi-family residential parking lots.
- **Historic or Specimen Trees** - trees designated as Historic or Specimen trees by the City Council.
- **Approved Landscape Plans**- vegetation included on approved landscape plans.
- **El Pueblo Viejo Landmark District** - vegetation located in the El Pueblo Viejo Landmark District.

2. How does the City currently regulate these trees and landscaping?

- **Street Trees** - A permit (no fee required) from the Parks & Recreation Department is required for any pruning or removal. Considerations for tree removals are outlined in SBMC §15.24.060.
- **Setback Trees and Parking Lot Trees** – A permit (no fee required) from the Parks & Recreation Department is required if removing a tree or if pruning will reduce the overall size by more than 1/3 or alter its character. An arborist's report is required for major pruning.
- **Approved Landscape Plans** are reviewed by the Community Development Department and may require design review approval from the Architectural Board of Review (ABR), Historic Landmarks Commission (HLC), or Single Family Design Board (SFDB).
- **El Pueblo Viejo Landmark District (EPV)** – all vegetation within EPV is reviewed by the Historic Landmarks Commission.

3. How does the City currently enforce these regulations?

- The Community Development Department enforces **Street Tree, Setback Tree and Parking Lot Tree** violations, in consultation with the Urban Forest Superintendent.
 - City investigates situation, determines violation and issues an Administrative Citation and fine (\$100 per tree), if warranted
 - If warranted, fines are imposed on the property owner *and the person/company who performed the work*
- The Community Development Department enforces violations of **Approved Landscape Plans** and changes within the **El Pueblo Viejo Landmark District**.
 - Written notice is sent to the property owner with a deadline to correct the violation (replace and/or restore the trees/landscaping, or request review and approval of a revised landscape plan by the appropriate design review body).

- If the deadline is not met, an Administrative Citation is issued and a fine (\$100 per violation) is imposed on the property owner. Additional fines are imposed if the violation remains uncorrected.
- If necessary, the City Attorney can litigate and take action to collect unpaid fines and/or obtain a court order requiring compliance. Any violation of the Municipal Code can be prosecuted as a misdemeanor.

4. What procedural changes has the City already implemented?

- Impose a fine (\$100 per tree) for Setback Tree, Street Tree, and Parking Lot Tree violations, if warranted
- In most cases, impose fines on the property owner and the person/company who performed the work.
- In addition to fines, require follow-up action to correct tree and landscaping violations.
- The Community Development Department, Parks & Recreation Department, and Fire Department will continue to work together to identify and enforce tree removals, severe pruning, and changes to approved landscape plans.

5. What additional changes is Staff considering?

- Impose fines on the property owner and the person/company who performed the work for tree and landscaping plan violations
- Increase fines from the current \$100 per violation. Under consideration is a sliding scale for Single Family Residence, Multi-Family Residence, and Commercial properties:
 - \$250 - \$500 per tree for inappropriate pruning (1st offense)
 - \$500 - \$1,000 per tree for inappropriate pruning (2nd offense)
 - \$500 - \$1,000 per tree removal without a permit, or landscape plan violation
- Establish a voluntary “certification program” for tree/landscaping maintenance companies to inform them of the City’s regulations, and for use in referrals.
- Add an exemption to allow tree removal or pruning when required by the Fire Department to maintain defensible space or comply with the City’s Wildland Fire Plan.
- Establish a maintenance standard for trees and landscape plans.
- Consistently measure tree diameter at 4½ feet above grade per current industry standard for the purposes of regulation.

We welcome your feedback on the proposed changes, and the following questions:

- a) Is the current Parks & Recreation permit review and approval process working?
- b) Would a “Certification Program” for tree/landscaping maintenance companies be beneficial?
- c) Is the proposed fine structure appropriate?
- d) Should we expand regulation to include 8” or larger oak and sycamore trees anywhere on private property?
- e) What other enforcement measures should be considered?
- f) How can we educate others about the City’s tree and landscaping regulations?

Please submit written comments by October 10, 2008 to:

Tim Downey, Urban Forest Superintendent, at TDowney@SantaBarbaraCA.gov
 City of Santa Barbara, Parks & Recreation Dept., P.O. Box 1990, Santa Barbara, CA 93102

Summary of Comments from the
September 22, 2008 Public Workshop

What suggestions do you have for ensuring that protected trees/landscaping are not removed or excessively pruned without a permit?

Is the current Parks & Recreation permit process working?

- All tree maintenance work should be required to be done by Certified Arborists
- Requiring permits etc on normal landscaping functions, tree trimming/replacement of non native or non-City or set back trees is going too far.

Would a “Certification Program” be beneficial?

- Make sure that all "certified" landscapers are licensed and insured.
- Education is KEY

Is the proposed fines structure appropriate?

- Fines should be raised
- Equal fine amounts for property owners and professionals
- Fine property owners who will not or cannot bring forth the violating “professional”.
- I know many people that would gladly pay \$100 to damage or remove their tree. This penalty has no teeth
- Tree value could be determined by the ISA Trunk Formula Method. Tree values are based on species, size (trunk diameter), condition, and location
- City tree penalties could be determined by a replacement cost that is based on large boxed and installed trees
- The heavy fine structure is to encourage property owners and tree companies to get a permit
- Fines should be higher for unlicensed contractors or people who do not hold a business license.

Should we expand regulation to include 8” or larger Oak and Sycamore trees anywhere on private property?

- Do not agree with extension of city requirements to all oaks and sycamores on private residential property
- Support tree removal permit requirements on native trees
- Support 100% saving all native trees

What other enforcement measures should be considered?

- The ordinance you are proposing should include distinctive trees in unique and historic locations as well as the skyline and canopy trees that comprise our urban forest

How can we educate others about City regulations?

- Needs to be clearer communication on the regulations, rules, and designations of Historic districts or Specimen trees
- Specimen trees representing species unique to Santa Barbara need special protection

Other

- Strongly oppose further city review of landscapes with Approved Landscape Plans
- Landscape decisions (those not involving tree removal) should not require a lengthy permit or review process
- Minor landscape changes should not require plans by a landscape architect, justification to the city, review by the ABR, or the time and money required to get a permit
- Set a time limit on landscape plan modifications requirements
- If a property has been permitted with an approved landscape plan the owner is required to maintain the plantings as approved
- Establish temporary funds for enforcement of updated ordinances
- Establish education task force that includes commercial, property mgmt, tree care professionals to get word out effectively

Summary of Comments from the November 13, 2008 Public Workshop

Goals – Intent – It is important to state the Goals and Intent of these ordinances
Examples include – shade, habitat, aesthetics etc.

Education – Public education is essential and should be on-going
Focus on preventing tree removals

What to regulate-

- Problem if regulation gets too detailed on landscaping gardens always change
- Property owner stated that he wanted no regulation on private property, he wanted to protect personal property rights.

Enforcement –

- Proposed new fines good – fine both property owner AND contractor
- Avoid residential back yards
- Include back yards – protect skyline trees – could be accommodated by calling out trees to be protected as part of approved Landscape plan

Collect Data –

Survey and assess the sizes of all street trees – keep record in case one is removed to allow for accurate fines.

Req. Owners to provide landscape Maintenance letter from the landscape architect every 1, 3, 5 year to confirm approved landscape plan is being maintained – similar to what County of SB does – this would be for Multifamily and Commercial projects.

What to Monitor – Who monitors it

- Boards Monitor Tree removal/replacement, turf and hedges specifically.
- Board Monitor cumulative changes
- Staff monitor ground covers or other plantings removed – make sure there is a replacement, not necessarily the same as on the plan.
- Staff review admin recommendations with Design Review Board landscape architects initially
- Staff receive horticulture training
- Volunteer licensed Landscape Architects could volunteer to review admin approvals
- For all Front setback and street trees – get Street Tree Advisory Board approval for tree BEFORE getting Design Review Board approval.

Cures

- VI. C. Rework language – largest commercially available tree may not be practical – could be punitive rather than curative.

ATTACHMENT 2

- If tree removed or excessively pruned was too large for the site; allow to replace with smaller one and additional trees elsewhere on the site.

Assistance

- SB Beautiful could have grants for educational pamphlets, possibly help fund staff training.

Minutes from Meetings of the Street Tree Advisory Committee, Park and Recreation Commission, Single Family Design Board, Architectural Board of Review and the Historic Landmarks Commission

Street Tree Advisory Committee – October 2, 2008

Tree/Landscape Preservation and Enforcement Procedures presentation and discussion

Committee comments and discussion:

- Have owner be responsible for identifying contractor or they pay the fine.
- Try to secure (grants) funds for a staff position for 1-2 years and then evaluate. This person would be used for enforcement education for ordinance.
- Fine structure too low.
- Homeowner should be just as responsible financially.
- Jumping into new areas is not a good idea right now.
- If significant trees are identified ahead and listed, then okay to go into other areas.
- Oaks would not be enforceable – let's fix what we have.
- Do not support/add legislation instead support education.
- Consider mimicking American National Standards Institute.

Park and Recreation Commission – September 24, 2008

Tree/Landscaping Preservation and Enforcement Procedures Update – For Discussion

Recommendation: That the Commission receive a presentation and provide preliminary comments on the Tree/Landscaping Preservation and Enforcement Procedures Update.

Commissioner Forsell asked regarding the fines, whether they began at \$50 then went to \$100, four to five years ago. Commissioner Forsell commented that he does not have a problem with the fines for the second offense, but he said he has a problem with a \$250 - \$500 fine for the first offense. He said people make mistakes, misinterpret, etc. He said he has a problem going from \$100 to \$250 to \$500 for the first offense.

Commissioner Forsell stated that he does not understand the sliding scale for single families, multi-families, and commercial. He asked which would pay more and which would pay less.

Mr. Downey responded saying that the Committee felt that contractors and people in the business of trimming trees should be aware of the municipal codes that related to what they are doing and should be the most responsible to know those codes, so their fines would be the highest. He said the multi-family property owners or property managers should know the codes better than individual or single family property owners, so they would be at a moderate level, and single family property owners would be at the lowest level.

Commissioner Forsell said he does not agree that the penalty, for multiple property or commercial property owners should be higher than for a person with a single family unit. Commissioner Forsell said he agrees that a big management company should be aware of the municipal code requirements, but he does not think that a person who owns multiple units or owns a commercial building, the fine should be higher than for a single family owner. He further expressed that he does not think their duty to understand the rules is any greater. He said he disagrees with a sliding scale.

Commissioner Gonzalez asked who would be liable if a tree is cut by a renter, the landlord or the renter, if the landlord is unaware the tree is cut. Mr. Downey said that has not been specifically addressed yet, but the current municipal code allows the City to fine both the property owner and the person doing the work. He said if it were appropriate not to fine the owner because they were unaware of the work, then that fee may be waived.

Commissioner Gonzalez commented that there are many people who trim trees. He suggested that if a person is cited, it should be mandatory for them to participate in the education program.

Commissioner Conner disagreed with Commissioner Forsell, saying that if you are a person who rents property, they should know the rules, and should be liable.

Commissioner Forsell commented that there are many small property owners in Santa Barbara that have one or two properties and that is their source of income.

Chair Longstreet concurred with Commissioner Conner. She said she thinks the fines are reasonable. Ms. Longstreet asked whether there would be the power to revoke a business license for a multiple offender. She said that knowing this kind of code is not any different than knowing any other kind of code. Ms. Longstreet said she would like to see an emphasis on educating the public on the code, for example in the water bills, Channel 18, etc.

Chair Longstreet said the meeting on Monday night was interesting and liked the idea of simplifying it so an average person can look in one location for all of the tree information. Chair Longstreet commented that during that meeting, some people present said they were willing to pay the fine. She said that staff is fighting an uphill battle, because people are basically going to do what they want to do.

Ms. Zachary advised that this item will be coming back to the Commission for action at the October meeting.

Chair Longstreet commended staff for moving forward with the Tree/Landscaping Preservation and Enforcement Policy saying that there have been some incidents lately that have made a huge difference in the landscape of the community.

Park and Recreation Commission – October 22, 2008

Tree/Landscaping Preservation and Enforcement Procedures Update - For Action

Recommendation: That the Commission:

- A. Receive a presentation on the Tree and Landscaping Preservation and Enforcement Procedures Update; and
- B. Provide recommendations to the City Council regarding proposed revisions to City policies and enforcement procedures related to the protection of trees.

Public Comment:

Wesley Brown read a letter from Bill Spiewak. A copy of this letter is on file in the Parks and Recreation Department.

Commissioner Comments:

Commissioner Forsell commented that the modified proposed fine structure appears to be equitable and he believes it is best to base fines on the trees rather than on whether the violator is a tree company, single family owner, or multiple family owner. Mr. Forsell asked who determines what the fine will be and whether there is a minimum fine.

Mr. Downey said the proposed fine structure is designed to provide flexibility. He said if a violation is minor and a fine is not warranted, there could be no fine, and if warranted, there could be a higher fine as determined by the level of the violation primarily determined by Code Enforcement or the Arborist.

Commissioner Forsell asked whether an individual would have the right to appeal a fine to the Park and Recreation Commission or to City Council.

Mr. Vincent, City Attorney's Office, said the fine structure would be the fine structure applicable to administrative citations. He said the Administrative Citation Process would be administered initially by a Code Enforcement Officer through the Community Development Department. He said a party who receives a citation from a Code Enforcement Officer does have an appeal right and may have an administrative appeal hearing by Hearing Officer from another Department. Mr. Vincent indicated that after that hearing, there is one final level of appellate review, which is with the Superior Court system.

Commissioner Gonzalez commented that he suspects there are many families in Santa Barbara who are not aware of the rules and regulations, and asked regarding the penalties, how the Department will educate the public on the new policies before they are implemented.

Mr. Downey said the Department will use all available means to educate the public. He said there have been recommendations to use of water bill inserts, public meetings, newspaper advertisements, etc. Mr. Downey said that if a violation occurs, knowledge of the ordinance may play into the level of the violation.

Commissioner Gonzalez asked regarding the various companies who do pruning for the City, whether a specific person provides guidance to those individuals in regards to the rules and regulations.

Mr. Downey said the contracts are written in such a way that they are specific about the types of pruning the contractors are schedule to do. He said the contractors are required to have a certified Arborist on site while pruning occurs, and, in addition, Forestry staff check on their work periodically to make sure they are complying with the work they are contracted to do.

Chair Longstreet asked how staff determines whether 1/3 or 1/4 of the tree is removed.

Mr. Downey responded saying that the Best Management Practices and American National Standards Institute (ANSI) A300 pruning standards mention 1/4 of the foliage of the tree can be removed. He said the Municipal Code states that 1/3 of the size of tree can be removed. Mr. Downey said that if he comes in contact with a tree that has been pruned, based on his knowledge of the species and the size of the cuts, he can determine how much of the size of the tree has been removed. He stated that if 1/4 of the foliage were the specification, it would be difficult to determine after the fact whether more than 1/4 had been removed. Mr. Downey indicated that is part of staff's concern about going to the other standards.

Chair Longstreet asked whether if you prune 1/4 this year then 1/4 next year, will the City be able to stop that gradual removal of a tree.

Mr. Downey said that the 1/4 of the tree removed in a 12-month period as specified in the Best Management Practices and ANSI Standard is based upon tree growth rates, and would not significantly reduce the size of the tree over time. He said the tree can biologically accept that kind of treatment and still provide the benefits to the community.

Chair Longstreet said she agrees with the new proposed fine structure and stressed that it needs to be a deterrent fine structure. She stated that education on the front end is most important.

Chair Longstreet concurred with not wanting to take on a great deal more in enforcement within the Department. She said she would rather the Department do what it does well, than take on more and not be able to do any of it very well. Ms. Longstreet stated that this is not the time to address other private trees and things not currently spelled out.

Chair Longstreet asked whether the Department will get involved in landscape plans the Commission does not review. She expressed concern regarding this.

Ms. Zachary said that currently the Department's involvement is related to existing trees protected under the City's Municipal Code.

Chair Longstreet commented that bringing everything together in one package is very important.

Commissioner Steve Forsell moved, seconded by Commissioner Arnoldo Gonzalez, and passed 3/0 to accept the staff tree and landscape preservation procedures update and forward to City Council with the Commission's comments.

SINGLE FAMILY DESIGN BOARD – September 29, 2008

DISCUSSION ITEM

TREE LANDSCAPING PROTECTION AND ENFORCEMENT

Jaime Limón, Senior Planner, and Tim Downey, Urban Forest Superintendent.

Time: 3:11

Mr. Limon, Senior Planner, and Tim Downey, City Arborist provided the staff presentation and responded to questions.

Public comment was opened at 3:50 p.m.

Catherine McCammon raised questions concerning the cutting of trees in Planned Unit Developments, and who is responsible if someone cuts down trees on someone else's property.

Public comment was closed at 3:51 p.m.

The Board had the following collective comments regarding Tree Preservation, Landscape Plans and Enforcement issues.

- Supports concept of landscape plan maintenance and requiring that property owners not remove specifically required landscaping as approved by the Board.
- Concerned that the proposed fine structure does not address the degree of violation with respect to quantity, species and size of tree removals. There was a collective opinion expressed that the removal of a very large skyline tree, multiple tree removals or a certain types of species are considered more egregious violations that warrant higher fine amounts.
- Commercial properties should also have a higher fine structure. Suggested we look at how City of Ojai estimates tree values.
- Historic sites or the removal specimen trees should have a higher fine structure.
- Need to require or improve the site posting noticing for trees removed by City of SB projects.
- Suggests posting City sidewalk trees so sign also faces pedestrians.
- Supports the need to develop and consider more protection of oak trees and other large skyline trees outside front yard setbacks.
- Likes idea of offering free City review or free permits for tree removals.
- Supports staff proposal to administratively review landscape plan maintenance issues but suggest significant tree removals and substantial mitigation plans be referred to SFDB review, at minimum Consent calendar.

HISTORIC LANDMARKS COMMISSION October 10, 2008

DISCUSSION ITEM

1. TREE LANDSCAPING PROTECTION AND ENFORCEMENT

(1:50)

Staff Presentation: Jaime Limón, Senior Planner/Design Review Supervisor; and Tim Downey, City Urban Forest Superintendent

Present: Jaime Limón, City Planning Division
Tim Downey, City Parks and Recreation Department

Mr. Limón stated that City Council charged City Staff to review the City's existing tree preservation enforcement regulations in order to strengthen them and evaluate whether their effectiveness could be improved upon. The City issues citations for unpermitted removal of trees and excessive pruning, but it is limited in its ability to charge large fines. The purpose of the presentation was to explain how existing regulations are being used differently and the City's plans to initiate ordinance amendments.

Mr. Downey stated that approximately 350 individuals were invited to attend an educational workshop on September 22, 2008, at Louise Lowry Davis Center to inform them of the existing regulations that are being enforced. Those invited included tree cutting companies, arborists, home owners associations, property management agencies, and gardening companies.

Mr. Limón explained that City Staff from different departments met to discuss what improvements could be made and concluded that increased fine structures were needed. Mr. Downey commented that the proposed fine structure is based on whether the individual receiving the fine is a single-family homeowner, multi-family manager, or commercial vendor. The commercial vendor would be the most responsible with the highest fine, multi-family would be moderate, and the single-family being the lowest. The proposed amounts are open for consideration. The goal is compliance and not making money; yet, Staff feels that, if there is no increase in fines, there will not be any compliance.

Public comment opened at 2:00 p.m.

Cheri Rae, local resident, commented about a new property owner in her neighborhood who removed valuable specimen trees. The result was an environmental impact to wild creatures and loss of shade. It also contributed to an increase in petty theft and crime. Ms. Rae requested high fees be issued specially for those that ignore proper procedures. She suggested that the money received from fines be used to mitigate the loss of trees.

Gene Tyburn, local certified arborist, commented that all unlawful tree removals are done by gardeners as “midnight pruning.” Mr. Tyburn stressed the importance of not blaming contractors and stated that he is in the tree-saving business. He suggested that the City create a task force to enforce upon those that do not have a license and are not insured. If unpermitted tree work is being done, an officer could be called to request the company’s license and a citation be written immediately.

Public comment closed at 2:07 p.m.

Mr. Limón explained that maintenance of landscape plans may impact the projects that will be reviewed by the Commission and requested input as to the structure of fines, tree removals and excessive pruning.

The Commission had the following comments and discussion with Staff:

1. The three areas that are problematic: 1) lack of education with respect to the City’s role; 2) how responsive the City is to complaints; and 3) whether an increase of enforcement is needed for trees that are not protected by ordinance.
2. Violations are an ongoing, wide-spread problem. In less than two years there have been 57 violations for unpermitted removal of trees and inappropriate pruning.
3. These efforts would enhance the preservation of trees ordinance. Preservation of trees will also be included in the Plan Santa Barbara (General Plan Update).
4. The ordinance states that one-third the size of tree may not be removed and the natural character of the tree should not be significantly altered.
5. Utility companies may have a federal mandate for cutting trees for power lines.
6. Skyline trees of large caliber that are not within the frontyard setback should be protected. Mature canopy trees should be protected on those properties deemed historic, structure of merit, landmark, and any commercial and institutional properties.
7. As part of the education efforts, realtors should be contacted.
8. Greater citation authority should be given and the fine should be depending on the severity of the violation. More substantial fines would discourage violations.
9. Responsiveness to a violation should be quicker.
10. A methodology should be established for determining who will be reviewing proposals, whether a permit could be granted for tree cutting, and the criteria that would be used to determine an acceptable amount of pruning.
11. As part of proactive efforts in informing people, anyone with a business license in the landscaping or gardening categories should be mailed information to make them aware. The City newsletter that goes out with the utility bill could also be useful.

12. The same group that was gathered for the water conservation ordinance could meet to discuss this subject. Representatives from different boards and commissions should be included.
13. At least one Commissioner commented that the burden should be on the owners of the property since they are making the decisions. Staff responded that the ability to go after both the contractor and the owner would not be affected.
14. As to the removal of trees for health and safety issues, the language should be clarified/strengthened for a systematic approach to replace trees on a mitigation ratio of one to one.
15. The City's urban forest is of great value and should be protected. Education is the key.

(Curtis/Murray/Sharpe absent.)

ARCHITECTURAL BOARD OF REVIEW - October 6, 2008

DISCUSSION ITEM

TREE LANDSCAPE PROTECTION AND ENFORCEMENT

Staff Presentation: Jaime Limón, Senior Planner/Design Review Supervisor.
Tim Downey, City Urban Forest Superintendent. (3:20)

The Board had the following collective comments regarding Tree Preservation, Landscape Plans and Enforcement issues.

- Supports increasing public's knowledge through such outreach as information provided in Zoning Information reports, inclusion in City water Bills and T.V. public service announcements
- Support for additional training to be provided for tree removal companies
- Need to protect mature specimen trees and require large size replacement trees to act as a deterrent for unauthorized tree removals
- Support repeat of offender fines
- Some concern regarding introducing a large fine for the removal smaller 4 inch trees, there should be more elaboration or significance of fines related to size of trees
- In agreement with goal for landscape plan maintenance and requiring that property owners not remove specifically required landscaping as approved by the Board. However, not all landscaping should be required to be maintained. Emphasis should be on major trees and shrubs.
- Concerns expressed regarding being careful to new regulations regarding backyards, some flexibility required for these areas. Public realm or skyline trees should be primary concern not all trees.
- Good step to protect larger oak trees in native woodland areas, and sycamore trees in riparian locations.

Public comment opened at 3:47 p.m.

Mr. Ray Choiniere, supported; approved efforts to preserve trees.

Ms. Sharon Summer, supported; approved efforts to preserve trees, oversight, and fines for violations.

Mr. Phil Walker, supported; approved efforts for fines and speedy landscape maintenance, including tree removal and pruning; and requested more attention to watering efforts and replanting/replacement.

Ms. Cheri Rae, supported; cited various examples for the need for fine enforcement to violations and against improper removal of skyline and historic trees. A support letter was also submitted to the Board.

Email correspondence from Ray Choiniere & Sharon Summer, and Julie Wood was acknowledged.

Public comment closed at 4:00 p.m.